IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

MFA.No. 925 of 2001(C)

OP(MV).1570/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, MANJERI
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APPELLANT:

THE MANAGING DIRECTOR,
MAHAKAVI BHARATHIYAR TRANSPORT
CORPORATION LTD., CHARING CROSS,
OOTY, PRESENTALY RE- DESIGNATED AS
TAMIL NADU STATE TRANSPORT CORPORATION,
(COIMBATOIRE DIVISION NO. III),
UDHAGAMANDALAM.

BY ADV. SRI.P.RAVINDRAN

RESPONDENTS:
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1. **K.RAJALAKSHMY, W/O. K.VIJAYAKUMARAN,**
   EDATHARATHODI HOUSE, ANAMANGAD AMSOM,
   EDATHARA DESOPM, POST THOOTHA.

2. **E.MEERA, D/O. K.VIJAYAKUMARAN OF DO.**

3. **E.ATHIRA, D/O. K.VIJAYAKUMARAN OF DO.**

4. **E.AKHILA, D/O. K.VIJAYAKUMARAN OF DO.**

5. **MOHANKUMAR, S/O. MANIKKAM, MUTHAYYA LAY OUT,**
   K.K.NAGAR, METTUPALAYAM (DRIVER)

6. **RANGANATHAN, S/O. V.P.GOVINDAN,**
   VALLY VIEW, OOTTY (DRIVER).

BY ADV. SRI.P.C.SASIDHARAN
SRI.P.K.VIJAYAMOHANAN
SRI.SOJAN MICHEAL

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 04/12/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.T.SANKARAN, JJ.

M.F.A.No.925 OF 2001

Dated 4th December, 2007

JUDGMENT

Koshy,J.

A 45 year old man who was employed as a Superintendent B/R-Grade-I, Military Engineering Service, Wellington, sustained fatal injuries in a motor accident on 16.2.1996. His wife and three minor children applied for compensation alleging that the accident occurred due to the negligence of the buses owned by the appellant transport corporation. There was a head on collision between the buses. Both buses were owned by the appellant. Tribunal found that the accident occurred due to the negligence of driver of the bus bearing registration No.TN-43/N-0039 owned by the appellant. Against a claim of compensation of Rs.14,00,000/=, Tribunal has awarded an amount of Rs.9,66,000/=.

2. First contention was that the finding of negligence by the Tribunal was not correct, but, the evidence adduced would show that driver of the bus in question (TN-43/N-0039) was driving the bus in a rash and negligent manner, head on collision occurred and both buses were owned by the same corporation. It also contented that the bus had mechanical failure. Even then appellant corporation is negligent in

maintaining the bus properly. From the evidence it is clear that finding of negligence, fixation of liability on the Corporation cannot be questioned.

3. Next is regarding the quantum of compensation. Salary certificate of the deceased was produced to show that his basic pay was in the scale of Rs.6,500 – 10,500 and on the date of the accident his basic pay alone was Rs.7,594/=. He was in the Military Engineering Service and he is entitled to periodical increments and wage revisions. His age of retirement is 58 and if he would have continued, his salary would have been doubled and he would have got all the retiral benefits and pensionary benefits also on the basis of last drawn salary. All these benefits were lost to the family. After retirement also, apart from the pension, he could earn income by private employment also. In **General Manager, K.S.R.T.C.** v. **Susamma Thomas** ((1994) 2 SCC 176) the Supreme Court held that future prospects is also a matter to be considered. However, Tribunal has taken only Rs.9,000/= as the monthly income and Rs.6,000/= as the monthly loss of dependency. We are of the opinion that no interference is required in the above. Tribunal has taken 13 as the multiplier. He had 13 more years of service in the Military. Under the second schedule also if a person aged between 45 and 50 dies, 13

is the multiplier. Therefore, there was no ground for reducing the multiplier. Compensation awarded under all other heads are also just and reasonable. However, we note that 12% interest was granted. Considering the total amount awarded, we reduce the interest rate to 9%. With that modification of the award, the appeal is dismissed.

J.B.KOSHY
JUDGE

K.T.SANKARAN
JUDGE

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